

Community Choice Aggregation En Banc Background Paper

A number of new Community Choice Aggregators (CCAs) have formed in California in recent years, and there is a potential for significant additional CCA growth. On February 1, 2017, the CPUC will hold an En Banc hearing to consider how various programs and regulatory activities could be affected as CCA growth continues. This paper was developed by Energy Division staff to provide background information on CCAs in support of the CCA En Banc hearing.

I. Introduction to Community Choice Aggregation Programs

CCAs are governmental entities formed by cities and counties to procure electricity for their residents, businesses, and municipal facilities.¹ CCA programs have several unique characteristics. When a CCA launches, investor-owned utility (IOU) electricity customers in the designated service area are automatically opted-in to CCA service, and have to opt out to continue to be served by the IOU.² Once established, a CCA purchases power for its customers. The procurement rates are not regulated by the CPUC and instead are regulated by the CCA following its own public process. While the CCA is responsible for procurement, the IOU still provides other services such as transmission, distribution, metering, billing, collection, and customer service. The nature of these divided but related responsibilities requires some form of partnership relationship between the CCA and the IOU on many operational issues. For instance, the bill that CCA customers receive comes from the IOU and identifies the amount that a customer owes to the CCA for procurement and to the IOU for the remaining electric services.

II. History and Statutory Authority

¹ CCAs cannot be formed in the jurisdiction of a publicly owned electric utility (POU) that provided electrical service as of January 1, 2003. (PU Code 331.1). A publicly owned electric utility is defined as a municipality or POU such as LADWP or SMUD.

² Customers may opt out of CCA service within the first 60 days of a CCA's launch without a fee. After 60 days have passed, customers may still opt out if they pay a one-time processing fee.

Community Choice Aggregation was created in California by AB 117 (2002), which authorized local governments to aggregate customer electric load and purchase electricity for customers. AB 117 provided that “all electrical corporations must cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregator programs.”³ The investor-owned utility still maintains the responsibility of providing transmission and distribution services, and continues to provide all metering, billing, collection, and customer service to retail customers that participate in a CCA.⁴

AB 117 also provided guidance on how communities may create a CCA program. AB 117 requires that the city or county pass an ordinance to implement a CCA program within its jurisdiction. Two or more cities or counties may participate in a CCA program as a group through a joint powers agency. Once a community has established a CCA program potential customers within the service area are automatically enrolled in the CCA unless they opt out so long as customers have been noticed in writing of their right to opt out of CCA service. Customers who opt out of CCA service continue to be served as bundled customers of the IOU electrical corporation.⁵

In Decision (D).05-12-041, the CPUC interpreted AB 117’s provisions as granting the CPUC jurisdiction over CCA programs as follows:

Generally, we find that AB 117 does not provide us with the authority to approve or reject a CCA’s implementation plan or to decertify a CCA but to assure that the CCA’s plans and program elements are consistent with utility tariffs and consistent with CPUC rules designed to protect consumers.⁶

D.05-12-041 also described the CPUC’s authority over CCA program operations as follows:

Nothing in the statute directs the CPUC to regulate the CCA’s program except to the extent that its program elements may affect utility operations and the rates and services to other customers. For example, the statute does not require the CPUC to set CCA rates or regulate the quality of its services.⁷

³ AB 117 p. 6, PU Code 366.2 (9).

⁴ PU Code 366.2.

⁵ AB 117 p. 5, PU Code 366.

⁶ D.05-12-041, p. 4.

⁷ D.05-12-041, p. 5.

In 2010, Marin Clean Energy (MCE) launched, representing the first implemented CCA in California. Soon after MCE was established, the legislature passed SB 790 in 2011 to expand upon AB 117 and provide additional protections and guidance on forming a CCA based on the experience with creating MCE.

As part of implementing SB 790 the CPUC established a Code of Conduct,⁸ which governs the treatment of CCAs by electrical corporations. The CPUC also established an expedited complaint procedure applicable to complaints filed by CCAs against electrical corporations.⁹ The rulemaking also considered, among other things, the CPUC's authority and regulatory process for considering CCA implementation plans and registration.¹⁰

AB 117 also required the CPUC to "determine a cost-recovery mechanism to be imposed on the community choice aggregator to prevent a shifting of costs to an electrical corporation's bundled customers." Pursuant to these statutory requirements, in 2002 and subsequent years, the CPUC adopted a series of decisions on the policies and methodologies surrounding the Power Charge Indifference Adjustment (PCIA).¹¹

CCAs cite regulatory uncertainty concerning non-bypassable charges as a problem. A major component of the non-bypassable charges is the PCIA. The PCIA is designed to recover the stranded resource procurement costs necessary to keep remaining bundled customers financially indifferent to the departure of customers taking CCA or Direct Access¹² program services. Other factors that could affect the competitiveness of CCA rates in the future are spot market prices and CCAs' own procurement strategies, including the length and size of their procurement contracts.

Although the CPUC's regulatory jurisdiction over CCAs is more limited than over IOUs, CCAs still must comply with certain requirements which are discussed in Sections IV and V of this paper.

⁸ D.12-12-036.

⁹ Since the establishment of the CCA Code of Conduct expedited complaint procedure, only one formal complaint has been filed (2016). This complaint was a dispute concerning the expediency of the integrating the IOU's billing and IT systems, and was settled before it went to hearing.

¹⁰ D.05-12-041.

¹¹ Major decisions on PCIA and its predecessor, Department of Water Resources (DWR) Power Charge methodologies include D.02-11-022, D.06-07-030, D.07-01-030, D.08-09-012, D.11-12-018, and Resolution E-4475.

¹² Direct Access (DA) is a program implemented by the CPUC and authorized by AB 1890 since January 1, 1998, which allows customers to purchase power from electric service providers other than their electric investor owned utility (IOU).

III. Community Choice Aggregation Today: Current Status and Potential Growth

Interest in forming CCAs has increased in recent years. Communities exploring community choice aggregation cite clean energy, local control, and consumer choice as the primary benefits of CCA programs. Local control also enables communities to pursue other goals, which could include lower rates or creating local jobs.

Beyond the CCAs which are already serving customers, the CPUC has also certified a number of CCA Implementation Plans which are scheduled to serve customers in 2017. These include Silicon Valley Clean Energy, Apple Valley Choice Energy, Hermosa Beach Choice Energy and Redwood Coast Energy Authority. In addition, MCE has significantly expanded its territory.

Many other communities are in various stages of CCA exploration. Notably, Los Angeles County is pursuing the formation of Los Angeles County Community Choice Energy (LACCE).¹³ Los Angeles County initiated a feasibility study to determine whether the County can meet the electricity load requirements for the 82 eligible cities and County unincorporated areas with rates that are competitive with Southern California Edison. The feasibility study resulted in a Business Plan, which concluded that a CCA in Los Angeles County is financially feasible and would yield benefits for residents and businesses. According to the Business Plan, the proposed LACCE service territory could be equal to more than 30 percent of Southern California Edison's retail load.¹⁴

Other governments exploring CCA programs include: San Jose; Alameda County and cities; Monterey, Santa Cruz and San Benito Counties; Santa Barbara, San Luis Obispo and Ventura Counties; and San Diego County and cities. Each of these governmental entities is in different stages of exploration. Based on historic trends it is unclear whether all of these entities will ultimately create a CCA.

¹³ <http://green.lacounty.gov/wps/portal/green/lacce>.

¹⁴ County of Los Angeles Community Choice Energy Business Plan, p 1. (Link: [County of Los Angeles Community Choice Energy \(LACCE\) Business Plan - 07.2016](#))

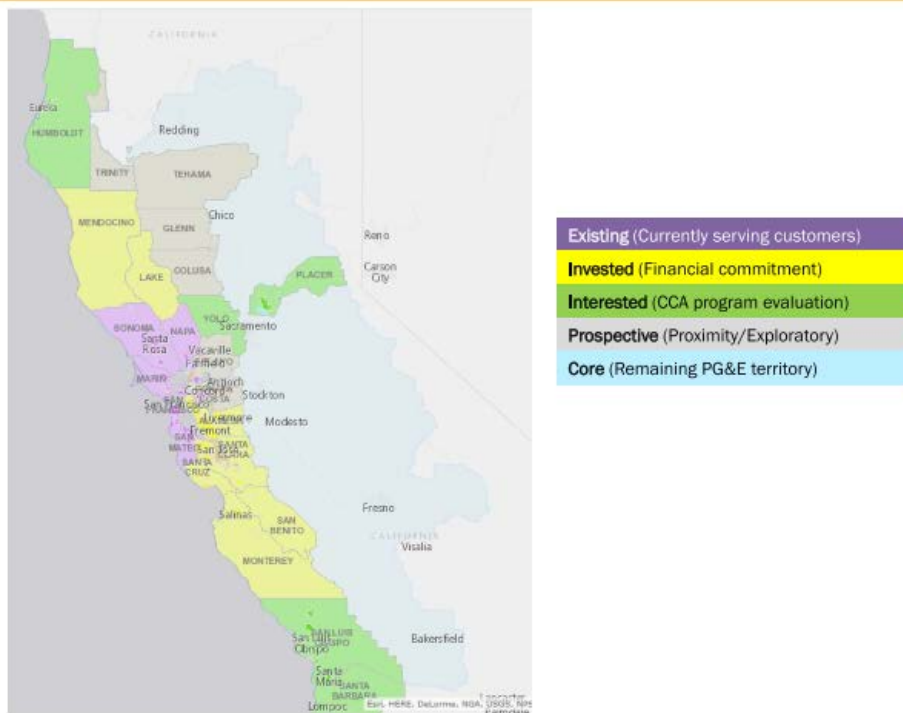
The following two graphics provide a visual of CCA activity and exploration in California.



(<http://www.leanenergyus.org/cca-by-state/california/>)



CCA Activity Today in PG&E's Service Territory



The above map was included in the Public Version of PG&E's notice of Ex Parte Communication on September 23rd, 2016 regarding A. 14-05-024, A.16-08-006, and R. 15-02-020.

Currently, communities exploring a CCA program have three potential paths to join a CCA. First, they can start their own CCA in their community. Second, they can join an already existing CCA as an expansion to their service territory, as has been done with MCE. Third, a community might launch their own CCA, but attempt to enter into a partnership with another existing CCA, as Hermosa Beach and Lancaster are considering. This third structure would be intended to maintain the benefits of independent governance, but also share certain services and contacts.

How long it takes a CCA to come into formation varies greatly by the community, and is dependent upon a number of factors, including: availability of resources to conduct a feasibility study, the organization and political will of potential communities involved and the complexity of the potential service territory.

IV. Current Requirements of CCAs in Resource Adequacy, Renewables Portfolio Standard, and Integrated Resource Planning

Resource Adequacy (RA)

The RA program covers all CPUC-jurisdictional load serving entities (LSEs) including IOUs, CCAs and Electric Service Providers (ESPs). All LSEs submit load forecasts and the CPUC determines each LSE's RA obligations as proportionate to their peak load share. The LSEs then submit annual and monthly filings to the CPUC to demonstrate compliance with their RA obligations.

When there is a need for procurement in order to meet a reliability need or a state priority goal (e.g. the demand response auction mechanism (DRAM) pilot or biomass energy procurement to address tree mortality), in most cases the CPUC has ordered the IOUs to procure capacity and allocates the associated costs to all LSEs through the "Cost Allocation Mechanism" (CAM). The capacity benefits for these priority resources are also allocated to the LSEs as a reduction in their RA requirement. This process has worked well in the past because the IOUs had the large majority share of the load and power procurement. However, if significant numbers of bundled customers move to CCAs with their associated load, it could

become difficult to use the utilities as a conduit for procurement for such purposes; potentially IOUs may be unwilling to procure capacity beyond their own customers' needs.

Currently, IOUs have a significant amount of long term contracts while CCAs generally have less procurement further out than the year-ahead RA requirement. To the extent that the business model of CCAs may focus less on long term procurement, market uncertainty may also become a greater issue as CCAs grow.

Renewables Portfolio Standard (RPS)

In the RPS program, CCAs are subject to the same procurement requirements and compliance rules as the IOUs. However, although CCAs are required to submit RPS procurement plans, they have fewer requirements than the IOUs. While the CPUC "approves" these plans for IOUs, the CPUC only "accepts" RPS plans for CCAs. Additionally, CCAs do not need CPUC approval for solicitations and procurement contracts. To the extent that the CPUC has less oversight over CCAs in the RPS area, this may result in less insight into the market and into procurement practices.

Integrated Resource Planning (IRP)

SB 350 (2015) established new clean energy, clean air and greenhouse gas reduction goals for 2030 and beyond. SB 350 requires the CPUC to (1) identify a preferred portfolio of resources that meets multiple objectives including minimizing costs, maintaining reliability, and reducing greenhouse gas (GHG) emissions (Section 454.51), and (2) oversee an IRP process involving a wide range of LSEs, including CCAs (Section 454.52). Section 454.51 requires IOUs to submit proposals for incremental procurement to satisfy their renewable integration needs. CCAs are permitted to submit such proposals; however, if the CPUC finds that the CCAs' renewable integration needs are best met through long-term procurement commitments for resources, CCAs are also required to make long-term commitments. Section 454.52 stipulates that the CCA's IRP shall be provided to the CPUC for certification.

CCAs have stated in informal comments¹⁵ that they have independent authority over all aspects of their IRPs, and that neither SB 350 nor any other statute expressly grants the CPUC authority to:

- Set GHG planning targets for CCAs;
- Make any binding determination regarding a CCA's share of any GHG planning target;
- Require that CCAs' IRPs be developed using CPUC-imposed inputs, assumptions or methodologies;
- Require that CCAs' IRPs comply with the CPUC's Reference System Plan or Preferred Plan; and
- Approve, deny or modify CCAs' IRPs based on any factor.

If the above assertions are correct, issues of consistency and coordination between CPUC requirements and CCA independent authority could diminish the long-term effectiveness of the IRP process and could limit the state's ability to meet its GHG emission reduction goals.

V. The Roles of CCAs in Customer-Facing Programs

Energy Efficiency (EE)

The CPUC's EE programs have historically been administered by the IOUs. Recent legislation and CPUC decisions opened program design and administration to Regional Energy Networks and CCAs. The Regional Energy Networks and CCA EE programs are independently designed and their applications are reviewed by the CPUC separately from the utility programs. Currently, MCE is the only CCA that administers EE programs. EE programs are funded primarily by a charge on all customer bills tied to public purpose programs which is part of the distribution charge that is paid by both IOU and CCA customers. Utilities collect funding for EE programs through rates, and Regional Energy Networks and CCAs receive funding from utilities to administer CPUC-approved programs.

¹⁵ See "Comments on Implementing GHG Planning Targets Staff White Paper" at www.cpuc.ca.gov/General.aspx?id=6442451195.

Because the CPUC has oversight of a range of EE programs that provide multiple methods to encourage energy efficiency activities (e.g., financial incentives, marketing and education, technical assistance), attributing energy reduction to any one party's activities is complex. As CCAs, Regional Energy Networks and third party providers take on an increased amount of program design and implementation, the CPUC will need to fine tune methodologies to attribute energy savings, and the corresponding funding that goes with a successful program, to avoid, mitigate and resolve disputes between the various interests.

Safety impacts the EE programs in many areas, but primarily in the vetting of contractors who enter individual customers' residences. Also, since some EE programs are intended to improve insulation and tighten the building envelope, it is important to conduct natural gas testing to avoid harm to the building's tenants and/or residents. Methods and procedures need to be established so that CCAs have all necessary safety information when establishing EE programs.

CCAs may provide energy efficiency programs either for just their CCA customers, or for both their CCA customers and for customers who have opted out of participating in CCA services. This distinction creates two paths for CCA administration of energy efficiency programs pursuant to Section 381.1.

For Option 1, a CCA may "Apply to Administer" (ATA). D. 14-01-033 makes ATA programs subject to the same rules as those for IOU programs including: the programs must be cost effective, pass the Total Resources Cost Test, and be subject to evaluation, measurement and validation review.¹⁶ If a CCA chooses to provide energy efficiency programs to both CCA and bundled customers, they must coordinate with the incumbent IOU to avoid double counting of energy savings.

For Option 2, a CCA may "Elect to Administer" (ETA). Under the ETA option, a CCA may provide energy efficiency programs for only their own customers. Programs under the ETA option have a much lighter regulatory touch – they must simply follow the requirements of General Order 96-B, meet the standards in Section 381.1(e)-(f), and be subject to financial audits.

¹⁶ Information updated from an MCE document prepared by Michael Callahan for a CCA meeting at the CPUC.

MCE's EE Programs:

Currently, MCE is the only CCA authorized to administer EE programs. MCE undertakes residential, commercial and financing programs.

MCE Programs	2013 - 2014 Annualized Budget	2015 Requested Budget	2015 Approved Budget	% of Requested Amount
Single Family	\$236,709	\$227,470	\$227,470	100%
Multi-Family	\$430,486	\$509,284	\$430,486	85%
Small Com	\$690,409	\$462,311	\$462,311	100%
Financing	\$650,000	\$100,000	\$100,000	100%
	\$2,007,603	\$1,299,065	\$1,220,267	94%

Transportation Electrification

CCA customers are eligible for IOU pilot programs¹⁷ in which the IOUs install infrastructure for electric vehicle charging. The costs of these pilot programs are included in the distribution component of rates, so all customers pay them through the IOU charges on their bill. CCA representatives may participate in the IOUs' program advisory councils that advise the IOUs on their pilot implementation.

If the CPUC and IOUs develop rates that encourage electric vehicle charging at times of day that are beneficial to the grid, but CCAs do not adopt those or similar rate structures, we may lose the opportunity for electric vehicles to help integrate renewables and make the grid more efficient. Some CCAs have their own electric vehicle programs, or will develop them in the future. In those cases, CCA customers could be eligible for both IOU programs and CCA programs. This presents additional opportunities for customers, but may be confusing for some as there is currently no mechanism to ensure CCA and IOU programs are complementary rather than duplicative. As a result, there is a risk that CCA customers will pay for electric vehicle programs offered by the IOU and also pay for similar programs offered by their CCA.

¹⁷ SCE's Charge Ready program was authorized in D.16-01-023. SDG&E's Power Your Drive program was authorized in D.16-01-045. PG&E's Charge Smart and Save was authorized on 12/15/16 in A.15-02-009, decision number is pending.

Time of Use (TOU) Rates

MCE and Sonoma Clean Power have expressed willingness to participate in the 2018 default TOU pilot program and in the default TOU rates for residential customers in 2019, as is required of PG&E and the other two electric IOUs.¹⁸

IOUs are required to provide a rate comparison to their customers before the customer can be defaulted onto a TOU rate.¹⁹ Stakeholders agree that this is a best practice. Thus, CCA customers should also be provided with a rate comparison if they are defaulted. However, this may be difficult in practice. For example, PG&E's software tool can only produce rate comparisons for bundled customers. In addition, there is a question about allocation of costs for the rate comparison tool.

If CCAs do not participate in default TOU rates, the goals of the TOU policy to improve renewables integration could be affected. In D.15-07-001, the Commission said:

We found there are many demonstrated benefits from existing [TOU] programs, and many potential benefits for California if a well-designed default TOU rate is implemented. For example, it is well established that TOU rates are more cost-based than flat or tier rates. TOU rates enable the customer to better understand electricity resources and make a positive difference in the environment by adjusting their use. TOU rates can also reduce the cost of infrastructure by reducing the need for peaker plants.²⁰

CCA non-participation would diminish the customer base that will be defaulted onto TOU rates and consequently could reduce the aggregate potential for reaching these goals. On the other hand, CCAs may develop their own TOU rate structures for their unregulated energy rates which could provide different benefits to customers and the grid.

¹⁸ D.15-07-001 at p. 172 (and surrounding discussion).

¹⁹ PU Code Section 745(c)(4) and (5).

²⁰ D.15-07-001, p 129.

Distributed Energy Resources (DER)

CCAs do not have any obligations under the DER competitive solicitations and shareholder incentives pilot for distribution grid deferral projects authorized in the Integrated Distributed Energy Resources (IDER) proceeding (D.16-12-036). However, CCAs are not prohibited from participating as a market competitor in the pilot competitive solicitation. In addition, any DERs procured for system reliability authorized in the CPUC's Long Term Procurement proceeding would be paid for by CCAs proportional to their customers' contribution to peak demand.

Low Income Programs

CCA customers are eligible to participate in California Alternate Rates for Energy (CARE), Family Electric Rate Assistance (FERA) and Medical Baseline programs.²¹ These programs are administered to all customers of IOUs, including CCA customers, and are funded through the Public Purpose Participation (PPP) charge. The PPP charge is paid for by all customers, including CCA customers, through the distribution charge.

One concern that has been raised is that CCAs could "cherry pick" customers by creating geographic boundaries that avoid low income or otherwise underserved neighborhoods. However, there is no evidence that this has happened with existing CCAs. Further research is required to determine if CCAs tend to form in more well-off sections of the state, and what impacts this might have on remaining IOU customers. In addition, another concern is that CCAs could also design a phased roll out that provides service only to high value customers in early years and thus delay service to lower value customers for multiple years.

VI. Future Considerations

A proliferation of CCA customers would present a number of potential opportunities and challenges that would require CPUC consideration. If a number of "super green" CCAs emerge that purchase large amounts of renewables that well exceed RPS requirements, this

²¹ CCA customers in PG&E's territory are also eligible for the Energy Savings Assistance Program (ESA), which is also funded by the PPP.

could greatly assist California in achieving its carbon goals. Furthermore, an increase in CCAs would provide choices for a greater number of customers about where to get their electricity.

While most of the CCAs under consideration today focus on “out greening” the IOUs, they are only statutorily required to meet the minimum RPS standards; other clean energy programs do not necessarily apply to CCAs. Alternatively some communities may look at CCA formation as a means of competing with the IOUs solely on rates instead of competing to go beyond the state’s clean energy requirements. Staff has not evaluated whether CCAs can both be more green than IOUs and also provide lower rates.

A large increase in CCA formation could also usher in significant changes to the role of IOUs in the electricity landscape. Even if CCA growth greatly diminishes the IOUs’ role in procurement, the IOUs will still maintain responsibility for transmission, distribution and billing. This division of obligations between the CCA and the IOU creates a form of partnership, with responsibilities that are distinct but related, and at times interdependent. A future in which CCAs procure electricity for a significant portion – perhaps even the majority – of IOU customers would present a number of questions that the CPUC must consider, including whether the current short- and long-term approach to procurement would need to be revisited, who would ensure reliability, cost allocation for reliability procurement and what entity or entities would be the “provider of last resort.”